

Remarks

The Examiner rejected claims 1-3 and 5-19 as being anticipated under 35 USC § 102 by either U.S. Patent No. 5,843,268 to Lyden ("Lyden") or U.S. Patent No. 6,237,249 to Aguerre ("Aguerre"). Based on the foregoing amendments and following remarks, Applicant submits all pending claims should be allowed over the cited references.

Independent claims 1-15 relate to a first material having a main support extending in a generally longitudinal direction and a plurality of extensions extending laterally from the main body. Independent claims 16-19 relate to a first material and a second material having at least two sections, where each section is encompassed by the first material, and where both the first and second materials extend from the top surface of the sole to the bottom surface of the sole.

Lyden relates to a shoe with rubber strips traversing a width of the shoe and where the rubber strips divide portions of the outsole. However, Lyden does not disclose the rubber extending in a generally longitudinal direction or rubber extending laterally from the longitudinally extending rubber. Lyden also fails to disclose rubber encompassing the outsole portions. Because Lyden fails to disclose any of these structural arrangements, Lyden does not anticipate all limitations of any of Applicant's independent claims and, therefore, all rejections with respect to Lyden should be withdrawn.

Aguerre relates a shoe with an outsole having two materials but the two materials do not extend from the top surface to the bottom surface of the outsole. Moreover, the shoe does not relate to a longitudinally extending first material with extensions extending laterally from this longitudinally extending first material. Because Aguerre fails to disclose any of these structurally arrangements, Aguerre does not anticipate all limi-

tations of any of Applicant's independent claims and, therefore, all rejections with respect to Aguerre should be withdrawn.

The Examiner rejected claims 1 and 4-19 as being unpatentable under 35 USC § 103 over U.S. Patent No. 4,309,376 to Ueno ("Ueno") in view of either Aguerre, U.S. Patent No. 5,862,614 to Koh ("Koh") or U.S. Patent Publication No. 2002/0116843 to Harrison ("Harrison").

Like Lyden and Aguerre, neither Ueno, Koh, nor Harrison relates to a shoe with a longitudinally extending first material with extensions extending laterally from this longitudinally extending first material. Neither Ueno, Koh, nor Harrison relates to both the first and second materials extending from the top surface to the bottom surface of the outsole. Moreover, these references do not relate to a shoe having the first material encompass sections of the second material.

Because no cited reference discloses, teaches, or suggests a shoe having a longitudinally extending first material with extensions extending laterally from this longitudinally extending first material, a shoe having first and second materials extending from the top surface to the bottom surface of the outsole, or a shoe having the first material encompass sections of the second material, there is no teaching or suggestion to combine these references together and modify the combination in order to arrive at Applicant's claimed invention.

A prima facie case of obviousness requires that the Examiner show that the proposed combination teaches all of the claimed elements, that there is motivation for the combination, and that there is a reasonable expectation of success for the combination. Because no reference alone or in any combination with one another relates to a shoe having a longitudinally extending first material with extensions extending laterally from this longitudinally extending first material, a shoe having first and second materials extending from the top surface to the bottom surface of the outsole, or a shoe hav-

ing the first material encompass sections of the second material, the proposed combination cannot include any of these claimed structural arrangements. When no reference refers to such claimed features, the motivation to combine the stated references in a manner to include Applicant's claimed feature is also absent. The reasonable expectation of success prong is moot given Examiner's failure to satisfy the "all-elements" and motivation prongs.

Even assuming that somehow the cited references may be combined, in order for a reference to be properly modified in a rejection under 35 USC §103, there must be some teaching or suggestion to make the modification. Without some teaching or suggestion, one skilled in the art lacks the motivation to make the modification. As discussed above, all of the references lack such a teaching or suggestion. It can hardly be argued or presumed that Applicant's shoe having a longitudinally extending first material with extensions extending laterally from this longitudinally extending first material, shoe having first and second materials extending from the top surface to the bottom surface of the outsole, or shoe having the first material encompass sections of the second material would be obvious.

Based on the foregoing, Applicant's submit that all claims are allowable and that all rejections be withdrawn.

Respectfully submitted,



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